

CHAPTER Pari 200 RULES OF PRACTICE

Statutory Authority: RSA 541-A:16, I(b), (c) and (d)

PART Pari 201 DEFINITIONS

Pari 201.01 Definitions.

(a) “Association of Racing Commissioners International, Inc. (ARCI)” means an organization with a membership composed of the racing commissioners of some states and neighboring territories and countries and an associate membership composed of representatives of the racing industry and its regulators in some foreign countries.

(b) “ARCI/NAPRA Joint Rules” means Version 3.3 of the set of standards and guidelines relating to horse and dog racing prepared and approved by ARCI and NAPRA on December 9, 2005.

(c) “North American Pari-Mutuel Regulators Association (NAPRA)” means an organization with the purpose of providing a cost-effective focal point for communications, and dispersing information relating to, the pari-mutuel industry and with a mission including the promotion of the integrity of the pari-mutuel industry through the formulation and communication of regulatory guidelines.

Source. #6775, eff 6-23-98; ss by #8648-A, eff 6-3-06

PART Pari 202 ADJUDICATIVE HEARINGS

Pari 202.01 Adoption by Reference. Except as otherwise provided herein, the rules of the commission relating to adjudicative proceedings in New Hampshire shall be as set forth in the ARCI/NAPRA Joint Rules on due process, Chapter 3, subject to amendments set forth in Pari 202.02.

Source. #6775, eff 6-23-98; ss by #8648-A, eff 6-3-06

Pari 202.02 Amendments to ARCI/NAPRA Joint Rules. The following amendments shall apply to the item incorporated in Pari 202.01:

- (a) Amend PMRMR-003-010 B. (1) by inserting the number “10 days” in the blank space;
- (b) Amend PMRMR-003-010 C. (2) by inserting:
  - (1) The phrase “10th” in the first blank space; and
  - (2) The number “10” in the second blank space;
- (c) Amend PMRMR-003-010 D. (1) by:
  - (1) Inserting the number “2 days” in the first blank; and
  - (2) Deleting the second sentence;
- (d) Amend PMRMR-003-010 G. (6) by inserting the number “2 days” in the blank space;
- (e) Amend PMRMR-003-010 I. (2) by inserting the phrase “10 days after the stewards’/judges’ ruling”;
- (f) Amend PMRMR-003-010 J. by deleting subparagraph (4) and replacing it with the following:

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (4) The Commission may grant a stay for cause. The Commission shall notify the person in writing of the decision. The Commission may rescind a stay granted under this subsection for reasonable cause.
- (g) Amend PMRMR-003-015 B. (1) by inserting the number “3” in the blank space;
- (h) Delete PMRMR-003-015 C. (5);
- (i) Amend PMRMR-003-015 D. (6) by inserting:
- (1) The phrase “5th” in the first blank space; and
  - (2) The number “3” in the second blank space;
- (j) Amend PMRMR-003-015 G. (3) by inserting:
- (1) The number “5 days” in the first blank space; and
  - (2) The phrase “5th” in the second blank space;
- (k) Amend PMRMR-003-015 I. by adding subparagraph (4) reading as follows:
- (4) Upon the presiding officer’s own initiative or upon the motion of any party, the presiding officer shall withdraw from any adjudicative proceeding for good cause if the presiding officer:
- (a) Has a direct interest in the outcome of the matter, including but not limited to, a financial or family relationship with any party;
  - (b) Has made statements or engaged in behavior which objectively demonstrates that he or she has prejudged the facts of the case; or
  - (c) Personally believes that he or she cannot fairly judge the facts of the case.
- (l) Amend PMRMR-003-015 N. (4) by inserting the number “5” in the first and second blank spaces;
- (m) Amend PMRMR-003-015 P. (1) by inserting the phrase “10 days” in the blank space;
- (n) Amend PMRMR-003-015 Q. by:
- (1) Deleting the phrase “The Administrative Procedure Act, \_\_ Civil Statutes, Art. \_\_, Sec. \_\_, pertaining to rehearing after Commission action, is hereby incorporated by reference.”; and
  - (2) Inserting the following subparagraphs (1) through (5):
    - (1) A rehearing shall be before a quorum of the commission.
    - (2) Within 30 days of the commission’s decision or order pursuant to PRMR-003-015 P., any party or person directly affected may request a rehearing of any matter determined in the proceeding or covered by the decision of order by submitting a written motion to the commission specifying:
      - (a) The issues to be considered at the rehearing; and
      - (b) Every ground on which it is claimed that the decision or order is unlawful or unreasonable.

- (3) An objection to a motion for rehearing shall be submitted within 5 days of the submission of the motion.
- (4) Within 10 days of the submission of the motion for rehearing, the commission shall:
  - (a) Grant the motion;
  - (b) Deny the motion; or
  - (c) Suspend the commission's decision or order pending further consideration.
- (5) The commission shall grant the motion for rehearing if it determines that, in the original hearing that the commission:
  - (a) Incorrectly assessed the relevant evidence;
  - (b) Incorrectly applied the relevant law; or
  - (c) Otherwise failed substantially to comply with this chapter or acted in a manner which was unlawful or unreasonable.

Source. #6775, eff 6-23-98; ss by #8648-A, eff 6-3-06

Pari 202.03 Date of Issuance or Filing.

- (a) All written documents governed by this part shall be rebuttably presumed to have been issued on the date noted on the document.
- (b) All written documents governed by this part shall be rebuttably presumed to have been filed with the commission on the date of receipt, as evidenced by a date placed on the document by the commission or its staff in the normal course of business.

Source. #8648-A, eff 6-3-06

Pari 202.04 Format of Documents.

- (a) All correspondence, pleadings, motions or other documents filed shall:
  - (1) Include the title and docket number, if known;
  - (2) Be typewritten or clearly printed on durable paper 8 ½ by 11 inches in size;
  - (3) Be signed by the proponent of the document, or, if the proponent appears by a representative, by the representative; and
  - (4) Include a statement certifying that a copy of the document has been delivered to all parties.
- (b) The signature of a party or the representative of the party on a document filed with the commission shall constitute certification that:
  - (1) The signer has read the document;
  - (2) The signer is authorized to file it;
  - (3) To the best of the signer's knowledge, information and belief there are good and sufficient grounds to support it; and

## NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (4) The document has not been filed for the purposes of delay.

Source. #8648-A, *eff* 6-3-06

### Pari 202.05 Delivery of Documents.

(a) Delivery of documents relating to a proceeding but not issued by the presiding officer or the commission shall be made either in hand or by depositing into the United States mail a copy of the document in an envelope bearing:

- (1) The name of the person intended to receive the document;
- (2) The full address, including zip code, last provided to the commission by such person; and
- (3) Prepaid first class postage.

(b) Delivery of documents relating to a proceeding and issued by the presiding officer or the commission shall be made by mailing them in accordance with (a) above and using certified mail with return receipt requested.

Source. #8648-A, *eff* 6-3-06

## PART Pari 203 PUBLIC COMMENTS IN RULEMAKING HEARINGS

### Pari 203.01 Conduct of Hearings.

(a) Rulemaking hearings shall be held by the commission in accordance with RSA 541-A and RSA 91-A.

(b) The commission shall hold at least one hearing on all proposed rules in accordance with RSA 541-A:11.

Source. #6775, *eff* 6-23-98; ss by #8648-A, *eff* 6-3-06

### Pari 203.02 Public Comments.

(a) Those attending a rulemaking hearing shall be allowed to present testimony both orally and in writing. The commission shall consider all such testimony and shall issue written comments in accordance with RSA 541-A:11, VII, if so requested.

(b) Those wishing to give oral testimony before a quorum of the commission at the hearing on the date noticed in the NH rulemaking register shall fill out a card indicating their name and address, the name and address of any organization, entity or other person whom they represent, whether they are for or against the proposed rule and the time needed to present oral testimony. The commission shall retain these cards as a record of public response at the oral hearing.

Source. #6775, *eff* 6-23-98; ss by #8648-A, *eff* 6-3-06

## PART Pari 204 RULEMAKING PETITIONS

Pari 204.01 Format. All petitions requesting the adoption, amendment or repeal of any commission rule shall:

- (a) Be in writing; and
- (b) State the following:

- (1) A citation to the rule in question;
- (2) The action the petitioner wishes the commission to take; and
- (3) How such action will benefit any area regulated by the commission pursuant to RSA 284:12, RSA 287-E:3 and RSA 287-E:18.

Source. #6775, eff 6-23-98; ss by #8648-A, eff 6-3-06

Pari 204.02 Response.

- (a) The commission shall respond to the petition as specified in RSA 541-A:4, I.
- (b) The commission shall grant a petition if it determines, based on the petition's response to Pari 204.01(b)(3), that such action will:

- (1) Benefit any area regulated by the commission pursuant to RSA 284:12, RSA 287-E:3 and RSA 287-E:18; and
- (2) Not result in:
  - a. A rule that is not within the rulemaking authority of the commission;
  - b. Duplication of a rule or a statutory provision;
  - c. Inconsistency between the existing rules and the statutory mandate of the commission;
  - d. Inconsistency of administrative rules one with another; or
  - e. Excessive burden upon the commission in terms of cost or a reduction in efficiency or effectiveness.

Source. #6775, eff 6-23-98; ss by #8648-A, eff 6-3-06

PART Pari 205 REQUESTS FOR DECLARATORY RULINGS

Pari 205.01 Requests for Declaratory Rulings.

- (a) Any individual or entity may request a declaratory ruling by the commission if that individual or entity is directly affected by the applicable statute or by any administrative rule.

- (b) A request for a declaratory ruling shall be in a writing containing:

- (1) The name and address of the individual or entity making the request;
- (2) The text of the ruling being requested;
- (3) The reasons for the request; and
- (4) The following declaration signed by the individual making the request, the authorized representative of such individual or the authorized representative of the entity making the request:

"I declare that I have examined the request for a declaratory ruling, including the accompanying documents, and state that, to the best of my knowledge and belief, the facts presented in support of the requested declaratory ruling are true, correct and complete."

Source. #8648-A, eff 6-3-06

Pari 205.02 Documents Required to Support Requests for Declaratory Rulings.

(a) A request for a declaratory ruling shall be accompanied by:

- (1) A statement citing the statutory law, regulatory law and orders believed to support the ruling being requested;
- (2) A statement of the facts believed to support the ruling being requested; and
- (3) Any supplementary material necessary to establish or clarify the facts set forth in the statement of facts.

(b) A request for a declaratory ruling may be accompanied by additional material chosen by the person making the request.

Source. #8648-A, eff 6-3-06

Pari 205.03 Processing Requests for Declaratory Rulings.

(a) Within 60 days of receiving a request for a declaratory ruling, the commission shall advise the individual or entity requesting it if the ruling will be delayed by the need for additional information or the complexity of the issues presented.

(b) If additional information should be needed, the commission shall specify the additional information required and request that it be provided in a statement of additional information that includes the declaration specified in Pari 205.01(b)(4) and is accompanied by any material necessary to establish or clarify the facts set forth in the statement.

Source. #8648-A, eff 6-3-06

Pari 205.04 Issuance and Publication of Declaratory Rulings.

(a) Within 120 days of receipt of a request for a declaratory ruling, the commission shall respond to the request by either:

- (1) Granting the request if facts sufficient to support a declaratory ruling have been established and issuing a written declaratory ruling which applies all relevant law to the established facts; or
- (2) Answering the request in writing containing a precise statement of the commission's reasons for denying the request.

(b) If the established facts show that the board lacks subject matter or personal jurisdiction to issue a declaratory ruling, the commission shall issue a written decision stating that it lacks jurisdiction to issue a declaratory ruling and identifying the lack of jurisdiction.

(c) Declaratory rulings shall be filed on the day of issuance with the director of legislative services in accordance with RSA 541-A:16, II(b).

Source. #8648-A, eff 6-3-06

Pari 205.05 Effect of Declaratory Rulings. A declaratory ruling shall apply only to the commission and to the individual requesting it and shall be confined to the facts presented pursuant to Pari 205.02(a)(2) through (a)(3) and in response to a request of the commission made pursuant to Pari 205.03(b).

Source. #8648-A, eff 6-3-06

PART Pari 206 EXPLANATION OF ADOPTED RULES

Pari 206.01 Requests for Explanation of Adopted Rules. Any interested person may, within 30 days of the final adoption of a rule, request a written explanation of that rule by making a written request to the commission including:

- (a) The name and address of the individual making the request; or
- (b) If the request is that of an organization or other entity, the name and address of such organization or entity and the name and address of the representative authorized by the organization or entity to make the request.

Source. #8648-B, eff 6-3-06

Pari 206.02 Contents of Explanation. The commission shall, within 90 days of receiving a request in accordance with Pari 206.01, provide a written response which:

- (a) Concisely states the meaning of the rule adopted;
- (b) Concisely states the principal reasons for and against the adoption of the rule in its final form; and
- (c) States, if the commission did so, why the commission overruled any arguments and considerations presented against the rule.

Source. #8648-B, eff 6-3-06

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

APPENDIX

RULE	STATUTE
Pari 201	RSA 541-A:16, I(b) and RSA 541-A:30-a
Pari 202	RSA 541-A:16, I(b)(3)
Pari 203	RSA 541-A:16, I(c)
Pari 204	RSA 541-A:16, I(d)
Pari 205	RSA 541-A:16, I(b) and RSA 541-A:11, VII
Pari 206	RSA 541-A:16, I(b)